

Remarks

This Amendment and Remarks is being filed responsive to the Final Office Action mailed November 13, 2008 and is presented at the two-month date. The Applicants request an Advisory Action. It is believed that this Amendment and Response document presents the claims in better form for appeal and entry is respectfully requested.

Information Disclosure Statement

Applicant requests reconsideration of the refusal to consider the foreign documents DE 4341114, DE 4411557, and DE 19723308 listed in the IDS form dated June 27, 2008. The Examiner alleged that Applicant did not provide an English translation of the document, nor did Applicant provide an English abstract.

Per a December, 2008 conversation with the Electronic Business Center, it was verified that a copy of the transmittal letter for the June 27, 2008 IDS had been uploaded properly on the date submitted and was present and viewable on PAIR as of the date submitted. The transmittal letter contained the required § 1.98(a)(3)(i) “concise explanation of the relevance, as it is presently understood by the individual designed in § 1.56(c) most knowledgeable about the content of the information, of each patent, publication, or other information listed that is not in the English language,” i.e., the inventor Gretchen Unger provided a concise explanation of the relevance about the content of each of the listed German patents.

For the Examiner’s convenience, a copy of the June 27, 2008 IDS filing containing the transmittal letter discussed above is re-filed with the current Response, along with the June 27, 2008 electronic filing receipt.

The Examiner, in a December, 2008 phone call with Applicant’s representative Mary B. Smith, recommended that a Response containing the above information be submitted by the Advisory Action deadline of January 13, 2009. The Examiner stated she would consider the German references at that time.

It is submitted that entry of the IDS-submitted documents DE 4341114, DE 4411557, and DE 19723308 will place the application in better form for appeal, per 37

CFR 1.116. Reconsideration and entry of these documents is therefore respectfully requested.

Remaining Objection and Rejections

The remaining Objection and Rejections from the Office Action dated November 13, 2008 will be addressed by Applicants once the instant documents DE 4341114, DE 4411557, and DE 19723308 have been duly considered by the Examiner.

Closing Remarks

Applicants believe that the pending claims are in condition for allowance. If it would be helpful to obtain favorable consideration of this case, the Examiner is encouraged to call and discuss this case with the undersigned. This constitutes a request for any needed extension of time and an authorization to charge all fees therefore to deposit account No. 19-5117, if not otherwise specifically requested. The undersigned hereby authorizes the charge of any fees created by the filing of this document or any deficiency of fees submitted herewith to be charged to deposit account No. 19-5117.

Respectfully submitted,

Date: January 13, 2009

/Mary Breen Smith/

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